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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,493	12/10/2003	Tomoyuki Terada	15162/05620	7682
24367	7590	03/03/2009		
SIDLEY AUSTIN LLP 717 NORTH HARWOOD SUITE 3400 DALLAS, TX 75201			EXAMINER DIEP, NHON THANH	
			ART UNIT 2621	PAPER NUMBER
			MAIL DATE 03/03/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/733,493

Applicant(s)

TERADA ET AL.

Examiner

Nhon T. Diep

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 4, 6-8, 10, 11, 16-18 and 20-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 6-8, 10, 11, 16-18 and 20-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/10/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 12/01/2008 with regard to claim 20-28 have been fully considered but they are not persuasive.

Regarding to the applicants' argument that "A claim is anticipated only if each and every element as set forth in the claim is found in a single prior art reference. MPEP § 2131. The identical invention must be shown in as complete detail as is contained in the claim and the elements must be arranged as required by the claim. MPEP § 2131. As explained below, Gutta does not disclose each limitation of claim 20 and thus cannot anticipate.

Gutta discloses a monitoring system that may generate an alarm when certain sensor inputs are received. Gutta discloses that an alarm may be generated when only one sensor input is received or when a combination of sensor inputs are received -- e.g., a loud sound followed by an unrecognized face. (col. 5, lines 32-34). Gutta does not disclose evaluating a trigger signal in order to determine whether or not the trigger signal is valid. Assuming for the sake of argument that the detection of an event by any one of the sensors disclosed in Gutta is a trigger, Gutta would still fail to anticipate because Gutta only discloses that an alarm condition may be created based on the detection of two sequential events without regard to the time between such events. By contrast, in claim 20, a trigger signal occurs and thereafter images from an image capturing apparatus are monitored to determine whether a change in images is detected within an expected time relative to the time of the trigger signal. Gutta does not

disclose evaluating a trigger signal based on the time between the occurrence of a trigger signal and a subsequently detected change in images. In order to anticipate claim 20, a reference must disclose a trigger signal, monitoring an image capturing unit for a change in images subsequent to a trigger signal, and evaluating the validity of a trigger signal based on the time between a trigger signal and the detection of a subsequent change in images. It is not sufficient for Gutta to simply disclose generating an alarm based on inputs from two or more sensors individually or in sequence. Accordingly, Gutta cannot anticipate claim 20.”.

The examiner respectfully disagrees, and it is respectfully submitted that Gutta et al in column 3, lines 16-19 discloses conditions classes for a suitable monitor system may include events such as trigger by a breathing sensor, motion sensor, or audio sensor in prior art devices and it is further submitted that motion sensor operates when temporal pictures are compared to detect changes and when changes exceeds a predetermined threshold, it trigger an alarm signal. Further more, in column 3, lines 26-28, Gutta et al defines during a time other than a previously defined time (predefined time T0-T1, so other time falls outside the range or falls before T0 or after T1), if there is lack of normal movement or there is an abnormal movement such as rapid movement (which will be detected by motion sensor, i.e. successive pictures are compared to detect changes), this will be one of the scenario that triggers an alarm signal.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 16-18 and 30-32 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding to claims 16-18 and 30-32, which are method claims, and that the claims do not fall within one of the four statutory categories of inventions. Supreme Court precedent and recent Federal Circuit decisions indicate a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claim(s) recite a series of steps or acts to be performed, it is considered that at least the steps of detecting, determining and carrying out in the claims fail to positively recite the other statutory class (the thing or product) to which it is tied, for example, by identifying the apparatus that accomplishes the method steps, In re Bilski, 88 USPQ2d 1385 (Fed. Cir. 2008).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 3-4, 6-8, 10-11, 16-18, 20-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Gutta et al (US 6,968,294 B2).

Gutta et al discloses an automatic system for monitoring person requiring care and his/her caretaker comprising the same control device for carrying out a predetermined process in response to a trigger signal, comprising:

a signal input unit connected to the sensor to receive said trigger signal (figure 1, el. 141, 100 and col. 3, ln. 16-19, col. 5, ln. 1-14);

a detector configured to receive continuous images from an image capturing unit and to detect a change in the images by analyzing the images obtained from said image capturing unit (col. 3, ln. 26-28: rapid movement detected as differences between two image frames exceed threshold);

a determining unit which determines said trigger signal is an invalid signal when said detector detects a change in the images within a predetermined time period (= without time out) from the input of the trigger signal to the signal input unit or between a first time from the input of said trigger signal to said signal input unit and a second time subsequent to said first time, and determines said trigger signal is a valid signal when said detector detects a change in images before said first time or after said second time (col. 3, event # 5: abnormal condition occurs when an infant or a child being picked up at a time other than a previously defined time (outside T0 and T1)); and

a controller carrying out a predetermined process when said trigger signal is determined as a valid signal by the determining unit (figure 1, speaker 114) as specified in claims 1, 16, 20, 29-30 and 33-34; said sensor detects an intruding object into a predetermined monitoring area in which images are captured by said image capturing unit (fig. 1, el. 141 and 135 and 136, proximity, motion sensor, alarm event #5) as

specified in claims 3 and 22; wherein said detector detects whether or not any moving object exists in each of the images in an image stream that continues in time series, which are obtained from said image capturing unit (col. 1, event #1: motion sensor) as specified in claims 4, 17, 23 and 31 ; wherein said controller carries out different processes between a case where said trigger signal is not determined as a valid signal by said determining unit and that where said trigger signal is determined as a valid signal by said determining unit (event #5, an infant or a child being picked up at a predetermined time, no action otherwise, send signal to sound speaker) as specified in claims 6 and 24; further comprising: a recorder recording continuous images obtained from said image capturing unit, wherein said controller controls said recorder so as to record the continuous images obtained from said image capturing unit, when said determining unit determines said trigger signal as a valid signal (col. 11, ln. 18-31) as specified in claims 7, 18, 25 and 32; wherein when said trigger signal is determined as a valid signal by said determining unit, said controller outputs a signal used for activating an external apparatus connected to the control device (fig. 1, el. 141-100-114) as specified in claims 8 and 26; further comprising: a sound-data storage unit storing sound data, wherein when said trigger signal is determined as a valid signal by said determining unit, said controller generates sound based upon sound data stored in said sound-data storage unit (col. 11, ln. 18-31 and fig. 1, el. 114) as specified in claims 10 and 27; further comprising: a communication unit carrying out data communications with an external apparatus, wherein when said trigger signal is determined as a valid signal by said determining unit, said controller allows said communication unit to output

information indicating the result of determination to said external apparatus (fig. 1, el. 141-100-114) as specified in claims 11 and 28; wherein said signal input unit is connected to a sensor which generates said trigger signal (fig. 1, 141, 135, 136, 305, 100, 114) as specified in claim 21.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhon T. Diep whose telephone number is 571-272-7328. The examiner can normally be reached on m-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Nhon T Diep/
Primary Examiner, Art Unit 2621